

STATE OF MICHIGAN
DEPARTMENT OF CONSUMER & INDUSTRY SERVICES
OFFICE OF FINANCIAL AND INSURANCE SERVICES
Before the Commissioner of Financial and Insurance Services

In the matter of

XXXXXXX and

File No. 52933-001

XXXXXXXXX

Petitioners,

v.

Blue Cross and Blue Shield of Michigan

Respondent.

Issued and entered
This 19th day of June 2003
by Linda A. Watters
Commissioner

ORDER

I
PROCEDURAL BACKGROUND

On April 2, 2003, XXXXXXXXX filed, on behalf of her minor sons, XXXXXXXX, XXXXXX and XXXXXXXX, a request for external review with the Commissioner of Financial and Insurance Services (Commissioner) under the Patient's Right to Independent Review Act (PRIRA), MCL 550.1901 *et seq.* After a review of the material submitted, the Commissioner accepted the request. The issues involved are medical in nature. The Commissioner therefore assigned the request to an independent review organization (IRO) on April 9, 2002. Blue Cross and Blue Shield of Michigan (BCBSM) reversed its adverse determination on the speech therapy services for XXXXXXXX and

paid those claims. Therefore, a determination on XXXXXXXXXX care is not required. The denial for services for the other two sons was maintained. The IRO indicated it lacked sufficient medical information to make a determination. The Petitioners' father agreed to provide additional medical records and to delay a decision on this case while he obtained those records. On May 22, 2003, additional medical records were provided to the IRO. On June 4, 2003, the IRO submitted its recommendations to the Commissioner.

II FACTUAL BACKGROUND

The Petitioners are twins. Both have articulation disorders that reduce their ability to be understood by others. They received speech therapy at XXXXXXXXXXXX in XXXXXXXX and XXXXXXXX XXXX and XXXXXXXX through XXXXXXX00X. Petitioners claim BCBSM preauthorized these services. Speech therapy is a covered benefit and BCBSM should pay for it. The total cost of this care was \$5,726.75. BCBSM denied payment for these services because Petitioners' diagnoses do not meet the criteria for speech therapy.

III ISSUE

Whether Petitioners' speech therapy is a covered benefit under their BCBSM Certificate of Coverage?

IV ANALYSIS

Petitioner's Position

BCBSM denied payment for Petitioners' speech therapy because their condition was developmental. Petitioners provided information from their speech pathologist that indicated the Petitioners are XXXXXXXXXXXXXXXX twins who received speech and language therapy inXXXXX and XXXX for severe articulation disorders. Their articulation disorders consist of multiple articulation errors, which greatly reduce their ability to be understood by others.

The Petitioners argue their condition meets BCBSM's criteria for speech therapy. Both have made steady progress with the therapy received. They argue this care is a covered benefit and BCBSM is required pay for it. The Petitioners also state they were told their speech therapy was pre-authorized. Their parents did everything possible to determine if this care was a covered benefit before beginning the speech therapy.

BCBSM's Position

Petitioners have health coverage under BCBSM's Comprehensive Health Care Co-payment Certificate Series CMM 250 (Certificate). Speech therapy is a covered benefit under Section 6 of this Certificate and states in pertinent part:

Speech and language pathology services must be:

- Prescribed by the patient's attending physician
- Given by a certified pathologist
- Given for a condition expected to be significantly improved in a reasonable and generally predictable period of time.

Note: Speech and language pathology services are not payable for:

- Long-standing chronic conditions.
- Developmental conditions or learning disabilities.
- Congenital or inherited speech abnormalities.

BCBSM's medical consultant reviewed Petitioners' medical records and concluded the Petitioners had mild articulation defects, which is a developmental condition. Treatment is therefore not a covered benefit. BCBSM contends that it is not required to pay for Petitioners' speech therapy.

Independent Review Organization (IRO) Recommendation

A practicing physician who is board certified in pediatrics and neurodevelopmental pediatrics and holds an academic appointment as an associate professor of pediatrics and developmental disabilities at a large academic center reviewed this case. The IRO consultant determined both of

the Petitioners' speech disorders are long-standing but not associated with other developmental lags and therefore should not be considered developmental. This articulation disorder is however long standing and chronic and therefore excluded by the Certificate. The IRO also indicated that speech therapy can be provided to the Petitioners through their school district.

Commissioner's Review

The Certificate of Coverage controls the analysis of whether a particular service is a covered benefit. Speech therapy is a covered benefit under Petitioners' BCBSM Certificate. However, the Certificate is also clear that speech therapy for the treatment of longstanding chronic conditions, developmental delays, and congenital or inherited speech abnormalities is not a covered benefit.

The IRO concluded that Petitioners' articulation disorders, while not developmental in nature, are long-standing and chronic. Speech therapy to treat those conditions is excluded by the Certificate. The IRO also indicated the Petitioners can receive speech therapy for their articulation problems through their school district. The Commissioner agrees with these conclusions. Petitioners' speech therapy, which was provided in XXXXXXXX and XXXXXXXX XXXX and from XXXXXXXX through XXXXXXXXXX is not covered under the Certificate.

The Petitioner did not provide information documenting that BCBSM agreed to pay for the Petitioners' speech therapy. It is possible that someone from the provider's office contacted BCBSM and confirmed that speech therapy is a covered benefit in the Petitioners' Certificate. However, this does not obligate BCBSM to pay for speech therapy for longstanding, chronic conditions that are specifically excluded in the contract.

V ORDER

The Commissioner ORDERS that the final adverse determination of BCBSM dated February 19, 2003, is upheld. BCBSM is not required to pay for the speech therapy, which was provided to Petitioners in XXXX and XXXX.

This is a final decision of an administrative agency. Under MCL 550.1915, any person aggrieved by this Order may seek judicial review no later than sixty days from the date of this Order in the Circuit Court for the county where the covered person resides or in the Circuit Court of Ingham County. A copy of the petition for judicial review should be sent to the Commissioner of the Office of Financial and Insurance Services, Health Plans Division, Post Office Box 30220, Lansing, MI 48909-7720.

Linda A. Watters
Commissioner